IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 90 of 2000

Date of decision 26.6.2007

State of H.P. **…Appellant.**

Versus

Shyam Lal **…Respondent.**

Coram

The Hon'ble Mr. Justice : Surjit Singh, Judge.

Whether approved for reporting?

For the appellant : Mr. Ashok Chaudhary, Addl. A.G.

For the respondent : Mr. Manoj Kumar Sharma, vice Mr. Onkar Jairath, Advocate.

Surjit Singh, Judge (Oral)

Respondent Shyam Lal had been sent up for trial for offences punishable under Section 279 and 337 of the Indian Penal Code for allegedly driving bus No. HP-31-1502 in so rash or negligent a manner as to endanger human life and personal safety of others and causing a collision with Jeep No. HP-02-4473, which appeared from the opposite direction at the site of the accident.

2. Facts as per record are like this. On 26.5.1996 around 8.00 p.m. respondent, who was then employed as a driver by the H.R.T.C.,

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Whether Reporters of Local Papers may be allowed to see the Judgment?

started with bus No. HP-31-1502 from Mandi for Delhi. When the bus reached a place called Barmana, Jeep No. HP-02-4473, which was being driven by PW-1 Ishwar Singh, appeared from the opposite direction. Time was around 9.45 p.m. There were three – four persons traveling by that Jeep. PW-1 Ishwar Singh on seeing that the bus was coming on the wrong side and at a fast speed, stopped his Jeep. Still the bus rammed into his Jeep as a result of which he and other occupants sustained simple injuries. Jeep was also damaged.

3. The trial Court acquitted the respondent holding that there was no evidence on record, except the bald statement of PW-1 Ishwar Singh, to prove the allegation that the bus was being driven by the respondent. State is aggrieved by the judgment of acquittal.

4. I have heard the learned Additional Advocate General for the appellant – State and the learned counsel for the respondent and perused the record.

5. There is ample evidence on record proving to the hilt that the bus, in question, was being driven by respondent Shyam Lal and none else. Besides PW-1 Ishwar Singh, who very categorically stated that the bus was being driven by the respondent, prosecution examined PW-6 Brij Lal, Inspector HRTC, who appeared along-with the Log Book and stated in no uncertain terms that the driver of the bus was respondent Shyam Lal. The witness was not subjected to any cross-examination. Testimony of PW-1 Ishwar Singh with regard to the fact that the bus was being driven by respondent was also not subjected to cross-examination. Not only this, certain suggestions were put to him, which indicate that the respondent did not deny that he was driving the bus. For example, it was suggested that

the respondent was not driving the vehicle at fast speed, which implies that the respondent admitted that he was in driver's seat when the accident took place.

6. Another suggestion that was put to PW-1 is to the effect that the case would not have been reported to the police had the respondent paid a sum of Rs.14,000/- to the witness, supposedly to compensate the damage sustained by him (PW-1 Ishwar Singh).

7. The evidence on record thus does not justify the trial Court's finding / view that the bus was not being driven by the respondent.

8. The evidence on record proves that the accident took place because of rash / negligent driving of the bus. Even the trial Court has nowhere said that the cause of the accident was not rash or negligent driving of the bus.

9. As a result of the above stated position, appeal is accepted. Judgment of the trial Court acquitting the respondent of the offences under Sections 279 and 337 of the Indian Penal Code is set aside. Consequently the respondent is convicted of the aforesaid two offences. Let he be produced for being heard on the question of quantum of sentence on 10.7.2007. Bailable warrant of arrest in the sum of Rs.5000/- be issued against the respondent mentioning therein that he is required to appear in the Court in person on the aforesaid date.

June 26, 2007 (BC) **(Surjit Singh)**
Judge